

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE:)	
)	
431 W. PONCE DE LEON, LLC, CARTEL)	Chapter 11
PROPERTIES SPALDING WOODS, LLC,)	
525 MORELAND AVENUE, LLC, CARTEL)	Case No. 13-53483-bem
PROPERTIES II, LLC, ROHRIG)	
INVESTMENTS, LP, AND ROHRIG)	Jointly-Administered
POLLACK, LLC,)	
)	
<u>Debtors.</u>)	

OBJECTION TO APPOINTMENT OF TRUSTEE

COMES NOW Midtown Bank & Trust Company (hereinafter referred to as “Midtown Bank”) and files this “Objection to Appointment of Trustee” (“Objection”). In support of the Objection, Midtown Bank shows the Court as follows:

1. Midtown Bank’s claim in this Bankruptcy Case is based on a loan (“Brady Loan”) made to 999 Brady, LLC as Borrower secured by property located on Brady Avenue in Atlanta, GA (the “Brady Collateral”) and guaranteed by George W. Rohrig, Jr. (“Mr. Rohrig”). As additional security for the Brady Loan, Mr. Rohrig granted Midtown Bank a first priority lien on property located at 5965 Covington Highway, Decatur, GA (the “5965 Covington Property”), which Mr. Rohrig subsequently conveyed to Cartel Properties II, LLC. Cartel Properties II, LLC is currently a Debtor in the above referenced Jointly Administered Bankruptcy and the 5965 Covington Property is therefore property of the Bankruptcy Estate.

2. On August 15, 2014, the United States Trustee (“UST”) filed its Motion to Appoint Chapter 11 Trustee (Doc. No. 867) (“UST Motion”).

3. On August 15, 2014, RREF BB Acquisitions, LLC (“Rialto”) filed its Amended Motion for Appointment of Trustee (Doc. No. 872).

4. On August 15, 2014, Debtors filed their Response in Opposition to the UST Motion (Doc. No. 873) (“Debtor’s Response”).

5. The UST Motion is set for hearing on August 19, 2014.

Objection

6. §1104 of the Bankruptcy Code sets forth the grounds for appointing a chapter 11 trustee, which are generally “for cause” or in the “best interest of creditors.” 11 U.S.C. §1104.

7. The facts of this case do not support the appointment of a trustee for either “cause” or in the “best interest of creditors.”

8. In fact, the “best interest” of creditors is better served by allowing the Debtors to amend their chapter 11 plan and seek confirmation of same.

9. Midtown Bank shows that the operations of the Debtors are complex and the appointment of a trustee would only increase the costs of this Case.

10. If a trustee is appointed, the trustee would likely hire a real estate expert to manage the Debtors’ vast and complex real estate holdings. However, here the Debtors are fully capable of managing same in the most efficient manner. The only issue is the contention between Debtors and a small group of creditors. However, Midtown Bank shows that it supports the Court granting Debtors the opportunity to continue to manage the affairs of Debtor and propose an amended plan of reorganization as requested in Debtors’ Response.

11. In the event a trustee is appointed or some other relief is granted by the Court, Midtown Bank shows that such relief should not affect the liability of any other person or

entity liable to Midtown Bank or property pledged as collateral to Midtown Bank including without limitation its Borrower (999 Brady, LLC), Mr. Rohrig and the Brady Collateral.

12. Midtown Bank reserves the right to amend or supplement this Objection.

WHEREFORE, Midtown Bank prays that this Objection to the appointment of trustee be inquired into by the Court, and for such further relief as may be just and proper.

Respectfully submitted this 18th day of August, 2014

JONES & WALDEN, LLC

/s/ Leslie M. Pineyro

Leslie M. Pineyro

Georgia Bar No. 969800

Attorney for Midtown Bank & Trust Company

21 Eighth Street, NE

Atlanta, Georgia 30309

(404) 564-9300 Telephone

(404) 564-9301 Facsimile

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)	
Debtors.)	

CERTIFICATE OF SERVICE

I hereby certify that I have caused to be served a copy of the foregoing objection on all parties referenced below by depositing a copy of same in the United States Mail, postage prepaid.

Ward Stone, Jr.
Stone & Baxter LLP
Fickling & Co. Bldg
577 Mulberry Street, Suite 800
Macon, Georgia 31201

David L. Bury, Jr.
Stone & Baxter LLP
Fickling & Co. Bldg
577 Mulberry Street, Suite 800
Macon, Georgia 31201

Frank W. DeBorde
Lisa Wolgast
Morris, Manning & Martin, LLP
1600 Atlanta Financial Center
3343 Peachtree Road, NE
Atlanta, Georgia 30326

David S. Weidenbaum
Office of the United States Trustee
362 Richard B. Russell Bldg
75 Spring Street, SW
Atlanta, Georgia 30303

Lawrence R. Landry
Quirk & Quirk, LLC
300 Century Springs West
6000 Lake Forrest Drive, NW
Atlanta, Georgia 30328

J. Michael Lamberth
Lamberth, Cifelli, Stokes, Ellis & Nason, PA
3343 Peachtree Road, NE, Ste 550
Atlanta, Georgia 30326

William Joseph Sheppard
James-Bates-Brannan-Grover-LLP
3399 Peachtree Road, NE
Suite 1700 – The Lenox Bldg
Atlanta, Georgia 30326

David C. Whitridge
Thompson, O'Brien, Kemp & Nasuti, PC
40 Technology Parkway South, Suite 300
Norcross, Georgia 30092

Richard J. Joseph
Stokes Lazarus & Carmichael LLP
80 Peachtree Park Drive NE
Atlanta, Georgia 30309

C. Jordan Myers
McGuireWoods LLP
1230 Peachtree St, NE, Ste 2100
Atlanta, Georgia 30309

Larry L. Ruff
Law Office of Larry L. Ruff, LLC
695 Whitley Road South
Marble Hill, Georgia 30148

Bryan A. Downs
Wilson, Morton & Downs, LLC
125 Clairemont Ave, Ste 420
Decatur, Georgia 30030

Gary W. Marsh
David E. Gordon
McKenna Long & Aldridge LLP
303 Peachtree St, Suite 5300
Atlanta, Georgia 30308

431 W. Ponce De Leon, LLC
340 E. Paces Ferry Road
Atlanta, Georgia 30305

Cartel Properties Spalding Woods, LLC
340 E. Paces Ferry Road
Atlanta, Georgia 30305

525 Moreland Avenue, LLC
340 E. Paces Ferry Road
Atlanta, Georgia 30305

Cartel Properties II, LLC
340 E. Paces Ferry Road
Atlanta, Georgia 30305

Rohrig Investments, LP
340 E. Paces Ferry Road
Atlanta, Georgia 30305

Rohrig Pollack, LLC
340 E. Paces Ferry Road
Atlanta, Georgia 30305

This 18th day of August, 2014

JONES & WALDEN, LLC

/s/ Leslie M. Pineyro

Leslie Pineyro
Georgia Bar No. 969800
Attorney for Midtown Bank & Trust Company
21 Eighth Street, NE
Atlanta, Georgia 30309
(404) 564-9300 Telephone
(404) 564-9301 Facsimile